

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY**

SCOTTSDALE INSURANCE COMPANY	CIVIL ACTION
vs.	(CAMDEN)
KAT CONSTRUCTION LLC	NO. 1:21-CV-00278

**SUPPLEMENTAL MEMORANDUM OF LAW IN SUPPORT OF THE  
DEFENDANT'S MOTION TO DISMISS**

The depositions of the Scottsdale insureds, Mr. Field and Ms. Welliver, were taken on Monday, May 16, 2022. In advance of those depositions, the attorney for Field and Welliver in the state court action, John R. Slattery, Esquire, provided counsel with a four page statement, composed by Field and Welliver, outlining their alleged damages and asserting that “[i]n addition to the uninsured losses set forth in the Complaint and their discovery responses, Ms. Welliver and Mr. Field will also be seeking money damages for, inter alia, the loss of use of their property, their general and specific inconvenience arising from the fire, as well as for Ms. Welliver’s complex post-traumatic stress disorder (CPTSD).” That four page statement is attached to this Supplemental Memorandum.

Mr. Slattery cites the recent case of Certain Underwriters at Lloyds v. Public Service Electric and Gas et al, 459 N.J. Super.436, 211 A. 3d 1247 (2019) to support his contention that these alleged damages, which are in excess of the amount received from Scottsdale, are recoverable in the ongoing state court action. The Defendant asserts that, based on this new information, which was generally supported by the testimony presented during the depositions, the claims alleged by Mr. Field and Ms. Welliver could

potentially exceed the limit of the policy *irrespective* of the sub-limit. Therefore, this action must be dismissed for lack of subject matter jurisdiction as argued in the Motion to Dismiss.

Based on the foregoing, it is respectfully requested that Plaintiff's Complaint be dismissed for lack of subject matter jurisdiction.

**MINTZER, SAROWITZ, ZERIS, LEDVA & MEYERS, LLP**

BY: /s/ Jeffrey C. Sotland  
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**MSZL&M File No. 008160.000010**

**CERTIFICATE OF SERVICE**

I, JEFFREY C. SOTLAND, ESQUIRE, hereby state that a true and correct copy of the **SUPPLEMENTAL MEMORANDUM OF LAW IN SUPPORT OF THE MOTION TO DISMISS** was served electronically on May 23, 2022 upon counsel as follows:

Daniel J. Luccaro, Esquire  
COZEN & O'CONNOR  
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/s/ Jeffrey C. Sotland

JEFFREY C. SOTLAND, ESQUIRE